

ORDINANCE NO. 87- 13

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA CREATING REGULATIONS FOR THE PROTECTION OF SEA TURTLES IN PALM BEACH COUNTY; PROVIDING FOR TITLE, AUTHORITY FOR ENACTMENT, PURPOSE, AND DEFINITIONS; PROVIDING FOR MANAGEMENT COORDINATION; PROVIDING FOR GENERAL PROHIBITIONS; PROVIDING FOR SEA TURTLE PROTECTION PLAN, APPLICATION AND PROCEDURES; PROVIDING FOR GENERAL STANDARDS; PROVIDING FOR STANDARDS FOR SITE DEVELOPMENT, NEW AND EXISTING BEACHFRONT LIGHTING, NEW AND EXISTING BEACH ACCESS POINTS, AND MECHANICAL BEACH CLEANING; PROVIDING FOR ENFORCEMENT AND PENALTIES, AND CONFLICTS; PROVIDING FOR SEVERABILITY, APPLICABILITY, FILING WITH THE DEPARTMENT OF STATE, FILING WITH THE DEPARTMENT OF COMMUNITY AFFAIRS, EFFECT DATE, AND CODIFICATION.

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida is authorized by Chapter 125, Florida Statutes, to adopt ordinances and resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law;

WHEREAS, the Board of County Commissioners has determined that it is necessary to implement policies, guidelines, and standards which minimize interference with the natural use of the beach for nesting and breeding by sea turtles, and which minimize potentially adverse impacts from beachfront lighting upon the behavioral patterns of nesting or hatching by sea turtles;

WHEREAS, three species of sea turtles currently nest on the beaches of Palm Beach County, Florida, and are protected by the United States Government under the Endangered Species Act of 1973;

WHEREAS, the Coastal Zone Management Act (CZMA) of 1972 and the Florida Coastal Management Act of 1978, Chapter 380.20 Florida Statutes (1985), encourage the conservation of coastal resources, including the conservation, protection, and propagation of all species of wild fauna and flora actually or potentially in danger of becoming extinct.

WHEREAS, Chapter 161.101(8)(g) and 161.161(2)(k) Florida Statutes (Supp. 1986) may authorize funding for erosion control projects based in part on the extent to which local governments in the area of the project have enacted ordinances to protect sea turtles from the adverse effects of beachfront lighting.

WHEREAS, Chapter 370.12, Florida Statutes, has protected marine turtles, their nests and eggs since 1953;

WHEREAS, the Palm Beach County Comprehensive Plan Conservation and Coastal Zone Element recognizes the significance and importance of coastal zone resources and wildlife, and provides for protection, enhancement, and management of same.

WHEREAS, the Board of County Commissioners desires to enact sea turtle protection regulations pursuant to the authority contained in Section 125.01, 163.3178, and 163.3194(1)(b), Florida Statutes, and other applicable law;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, SITTING AS THE PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, THAT:

SECTION 1. TITLE

This article shall be known as the "Palm Beach County Sea Turtle Protection Ordinance".

1 SECTION 2. AUTHORITY FOR ENACTMENT

2 This ordinance is enacted pursuant to the authority vested in
3 the Board of County Commissioners by virtue of Article 8, Section 1 of
4 the Constitution of the State of Florida, Section 125.01 and Section
5 163.3161 et seq Florida Statutes.

6 SECTION 3. PURPOSE

7 The purpose of this ordinance, recognizing the unique
8 characteristics of the sea turtle, particularly its nesting cycle, is to
9 prevent and reduce the hazards impacting sea turtles from uncontrolled
10 construction activity, beachfront lighting, beach access, mechanical
11 beach cleaning, and other coastal activities.

12 SECTION 4. DEFINITIONS.

13 For the purpose of this ordinance, the following terms shall
14 mean:

15 (1) "Artificial light source(s)" shall mean any source of
16 light emanating from a man-made device, including but not limited to,
17 incandescent mercury vapor, metal halide or sodium lamps, spotlights,
18 street lights, vehicular lights, construction or security lights.

19 (2) "Beach access point" shall mean any path through or over
20 the dune used by the general public; or, with respect to private
21 property, by the owners or with the owner's permission, for the purpose
22 of gaining access to the beach.

23 (3) "Beach" shall mean the zone of unconsolidated material
24 that extends landward from the mean low water line to the place where
25 there is a marked change in material or physiographic form, or to the
26 line of permanent vegetation (usually the effective limit of storm
27 waves), as is defined in Chapter 16B-33, Florida Administrative Code.

28 (4) "Beachfront lighting" shall mean all lighting within the
29 jurisdictional boundaries of this Ordinance.

30 (5) "Board" shall mean the Board of County Commissioners of
31 Palm Beach County.

32 (6) "Coastal construction" shall mean the carrying out of any
33 activity within jurisdictional boundaries to modify or improve site
34 conditions including, but not limited to, building, clearing, filling,
35 excavation, grading, or planting of vegetation, or the making of any
36 material change in the size or use of any structure or the appearance of
37 site conditions, or the placement of equipment or material upon such
38 sites.

39 (7) "County" shall mean Palm Beach County, a political
40 subdivision of the State of Florida.

41 (8) "Department of Environmental Resource Management" shall
42 mean Palm Beach County Department of Environmental Resource Management or
43 applicable municipal entity.

44 (9) "Department of Planning, Zoning, and Building" shall mean
45 the Department of Planning, Zoning, and Building of Palm Beach County or
46 an entity of any municipality in Palm Beach County which has been
47 assigned the responsibility of administering and enforcing this
48 ordinance.

49 (10) "Dune" shall mean a mound or ridge of loose sediments,
50 lying landward of the beach and deposited by any natural or artificial
51 mechanism.

(11) "Dune profile" shall mean the cross-sectional configuration of the dune.

(12) "Ground-level barrier" shall mean any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

(13) "Hatchling" shall mean any specimen of sea turtle, within or outside of a nest, which has recently hatched from an egg.

(14) "Jurisdictional boundaries" shall mean the area between State Road A1A and the Atlantic Ocean or, between the Coastal Construction Control Line, established pursuant to Chapter 161.053, Florida Statutes, and the Atlantic Ocean, whichever is greater, but in neither event to exceed 500 feet landward of the mean high water line.

(15) "Nest" shall mean the area, in and around, a place in which sea turtle eggs are naturally deposited or relocated beneath the sediments of the beach-dune system.

(16) "Nesting season" shall mean the period from May 1 through October 31 of each year.

(17) "Permitted agent of the State" shall mean any qualified individual, group or organization possessing a permit from DNR to conduct activities related to sea turtle protection and conservation.

(18) "Person" shall mean any individual, firm, association, joint venture, partnership, estate, trust, corporation, group, state officer, or unit of federal, state, county, or municipal government, and all other associations and combinations, whether public or private.

(19) "Sea turtles(s)" shall mean any specimen belonging to the species Caretta caretta (loggerhead turtle), Chelonia mydas (green turtle), Dermochelys coriacea (leatherback turtle) or any other marine turtle using Palm Beach County beaches as a nesting habitat.

(20) "State" shall mean the State of Florida.

(21) "Tinted glass" shall mean any window which has:

(a) a shading coefficient (the percent of incident radiation passing through a window) of .45 or less, and

(b) a minimum five year warranty, and

(c) performance claims which are supported by approved testing procedures and documentation.

SECTION 5. MANAGEMENT COORDINATION

The Department of Planning, Zoning, and Building shall be responsible for coordinating inter-governmental activities and for establishing administrative policies germane to the effective and timely implementation of conditions set out in this ordinance.

(1) Coordination. The Department shall develop a process whereby after the effective day of this ordinance:

(a) A person submitting a site plan and/or building plan for coastal construction within jurisdictional boundaries is made aware of all instructions, requirements, and guidelines contained herein by inclusion or reference.

(b) No Certificate of Occupancy is issued prior to approval of the beachfront lighting for coastal construction.

(2) Coordination with the Department of Natural Resources, Department of Environmental Regulation, and the Army Corps of Engineers. The Department shall develop an administrative process whereby upon adoption of this ordinance, a person submitting a plan for improvement within the jurisdictional boundaries of this Ordinance is made aware of and may also be required to comply with the permitting requirements of other State and Federal agencies, and that the applicant is required to forward to the Department all comments and permits transmitted or granted by these agencies.

(3) Enforcement. The Department or other applicable municipal entities shall develop a process for the consistent and effective enforcement of conditions set out in this ordinance.

(4) Compatibility with Other County Ordinances. The Department shall review the conditions set out in this ordinance for the protection of sea turtles are consistent with guidelines, rules, and regulations set out in other county ordinances and shall establish procedures for resolving areas of conflict.

SECTION 6. PROHIBITION OF ACTIVITIES DISRUPTIVE TO SEA TURTLES

The following prohibitions during the nesting season (May 1 through October 31) are established for the protection of sea turtles:

(1) Prohibition of Motorized Vehicles Seaward of Dune. The operation of motorized vehicles, including but not limited to, any self-propelled, wheeled, tracked, or belted conveyance, shall be prohibited on or seaward of the dune during the nesting season, except in cases of law enforcement, emergency or as otherwise approved by Department of Natural Resources, as further set out in Section 15 herein.

(2) Prohibition of Horseback Riding. Horseback riding shall be prohibited on or seaward of the dune during the nesting season.

(3) Prohibition of Campfires. Campfires shall be prohibited on or seaward of the dune during the nesting season.

SECTION 7. SEA TURTLE PROTECTION PLAN (STPP) REQUIREMENT FOR COASTAL CONSTRUCTION WITHIN JURISDICTIONAL BOUNDARIES

A Sea Turtle Protection Plan (STPP) shall be required for the following activities and shall include any and all protective/mitigative measures that will be implemented in conjunction with these activities:

(1) All coastal construction within jurisdictional boundaries involving the installation of permanently mounted light fixtures.

(2) All coastal construction conducted during the nesting season (May 1 through October 31), seaward of the dune, within jurisdictional boundaries, including site development and mechanical beach cleaning.

SECTION 8. SEA TURTLE PROTECTION PLAN (STPP) APPLICATION AND PROCEDURES

(1) Preparation and Submission of Sea Turtle Protection Plan (STPP). A STPP shall be submitted to the Department of Planning, Zoning, and Building prior to or concurrently with the submission of a building and/or site plan. The STPP shall include the following information, as applicable:

(a) General Information. A STPP required pursuant to this ordinance shall include the following information, as applicable:

(i) Identification of person(s) having legal or equitable interest in the subject property.

- 1 (ii) Legal description of the subject property.
- 2 (iii) Name of the general contractor for the
- 3 project.
- 4 (iv) Assurance that the applicant has written
- 5 authority to act as agent for person(s) with
- 6 legal or equitable interest in the subject
- 7 property.
- 8 (v) Description of the proposed construction and
- 9 intended land use.
- 10 (vi) Scaled map of the site with a north arrow.
- 11 (b) Light Information. A STPP required pursuant to this
- 12 ordinance shall include the following information, as applicable, for all
- 13 areas of the subject property within line of sight of the beach:
- 14 (i) The location, number and positioning of
- 15 proposed floodlights, spotlights and other
- 16 fixtures discharging lighting from
- 17 incandescent, fluorescent, mercury vapor or
- 18 high pressure sodium lamps.
- 19 (ii) The location, number, positioning, and type
- 20 of all other artificial light sources
- 21 including, but not limited to, those used on
- 22 balconies, walkways, recreational areas,
- 23 roadways, parking lots, dune crossovers,
- 24 decks, boardwalks and signs.
- 25 (iii) Protective/mitigative measures to minimize
- 26 lighting impacts on sea turtles, including
- 27 measures to prevent direct illumination of
- 28 areas seaward of the dune.
- 29 (c) Construction Information. A STPP required pursuant
- 30 to this ordinance shall include the following information, as applicable:
- 31 (i) A schedule of proposed construction periods.
- 32 (ii) The number of linear feet of shoreline
- 33 seaward of the dune upon which construction
- 34 will occur.
- 35 (iii) The number and type of vehicles anticipated
- 36 during construction, the type of equipment
- 37 and materials to be used seaward of the dune,
- 38 and the location of beach access points to be
- 39 used in moving equipment and materials to and
- 40 from the construction site.
- 41 (iv) The location, number, positioning, and type
- 42 of temporary nighttime security lights.
- 43 (v) The location, number, positioning, and type
- 44 of nighttime construction lights and the
- 45 extent of areas seaward of the dune to be
- 46 illuminated.
- 47 (vi) Protective/mitigative measures to minimize
- 48 construction impacts on sea turtles.

1 SECTION 9. - GENERAL STANDARDS FOR COASTAL CONSTRUCTION WITHIN
2 JURISDICTIONAL BOUNDARIES

3 The following standards shall apply to all coastal construction
4 specified in this ordinance and, as applicable, shall be incorporated in
5 a Sea Turtle Protection Plan (STPP):

6 (1) Sea Turtle Protection Plan (STPP) Approval. The
7 Department of Planning, Zoning, and Building or applicable municipal
8 entity, shall approve a STPP prior to the issuance of a building permit
9 or approval of a site plan provided the standards as set forth herein
10 have been met. Approval of a STPP does not relieve persons(s) from
11 complying with all other applicable conditions set out in this ordinance
12 or from mitigating against subsequent negative impacts to sea turtles,
13 their nests or eggs resulting from the approved activity.

14 (2) Coastal Construction Seaward of Dune During the Nesting
15 Season. Appropriate protective/mitigative measures for sea turtles,
16 developed pursuant to this section, shall be implemented for all coastal
17 construction seaward of the dune during the nesting season.

18 (3) Restrictions on Nighttime Security Lighting. Temporary
19 nighttime security lighting shall be restricted as follows:

20 (a) Be mounted not more than fifteen (15) feet above the
21 ground.

22 (b) Not illuminate areas outside of the subject
23 property.

24 (c) Not directly illuminate areas seaward of the dune
25 unless specific protective/mitigative measures for lighting impacts are
26 developed pursuant to this section.

27 (4) Nighttime Construction During The Nesting Season. To
28 avoid potential lighting impacts on nesting adult turtles and emergent
29 hatchlings, protective/mitigative measures for sea turtles which comply
30 with this ordinance may be required for nighttime coastal construction
31 during the nesting season, in addition to those below.

32 (5) Protective/Mitigative Measures. Protective/mitigative
33 measures shall include, but not be limited to, the following, as
34 applicable.

35 (a) Preliminary Site Survey. A permitted agent of the
36 State shall conduct a preliminary site survey and relocate all sea turtle
37 nests to a safe habitat for coastal construction seaward of the dune
38 during the nesting season.

39 (b) Exemption of Preliminary Site Survey. Construction
40 activity in progress on or before May 1 of each year shall be exempt from
41 a preliminary site survey but shall implement daily nesting surveys
42 pursuant to Section 6 (e) below.

43 (c) Delay of Construction. If nests are known to be
44 present during a preliminary site survey and cannot be relocated and/or
45 removed to a safe habitat, construction shall cease for sixty (60) days
46 or until all potentially affected nests have hatched.

47 (d) Prevention of Construction Delays. Person(s)
48 anticipating construction starts during the nesting season may obtain the
49 services of a permitted agent of the State to relocate nests from
50 construction areas on a daily basis, beginning no later than May 1 of
51 each year.

52 (e) Daily Nesting Surveys. A permitted agent of the
53 State shall conduct daily nesting surveys of construction areas seaward
54 of the dune, and shall cage sea turtle nests or relocate the nests to a

safe habitat, beginning with the preliminary site survey or the nesting season, as applicable, until any one (1) of the following occurs:

(i) Exclusion fences are erected pursuant to Section (9) (f).

(ii) Construction activities are completed.

(iii) The nesting season has ended as defined herein.

(f) Use of Exclusion Fences. Any physical barrier used to prevent sea turtles from entering construction areas may be used as an exclusion fence in lieu of daily nesting surveys if prior approval is granted by the Department of Planning, Zoning, and Building. Exclusion fences shall:

(i) Be constructed so they are non-injurious to adult sea turtles.

(ii) Form a continuous barrier against sea turtle intrusions.

(iii) Be monitored daily by DNR approved personnel.

(iv) Be repaired as necessary to prevent breaches.

(v) Shall not prevent legal pedestrian access to the beach.

(g) Breaches. Breaches through an exclusion fence which result in successful nesting shall be reported to the Department of Planning, Zoning, and Building and the nest(s) shall be relocated from the construction area by a permitted agent of the State.

(h) Delimitation of Construction Areas. Preliminary site surveys, daily nesting surveys and/or exclusion fences shall encompass all areas seaward of the dune upon which construction activities occur and upon which equipment and materials are moved to and from the construction areas.

(i) Record Maintenance. Daily records shall be maintained for all sea turtle monitoring conducted pursuant to this section, and together with a summary of the monitoring results, shall be provided to the Department of Planning, Zoning, and Building by the person(s) identified in Section 8 (1) (a) (i) upon completion of construction activities, or the end of the sea turtle nesting season, whichever comes first. Daily records shall include, as appropriate:

(i) The date of the preliminary site survey.

(ii) The date(s) of the daily nesting survey.

(iii) The date(s) of exclusion fence monitoring.

(iv) The observed nesting activity within the construction area.

(v) The number of nests relocated.

(vi) The number of eggs per nest relocated.

(vii) The nest relocation area(s).

(viii) The hatch success if required.

(ix) The effectiveness of the exclusion fence(s).

- 1 (x) The name(s) of the permitted agent of the
2 State performing the monitoring program.

3 SECTION 10. - STANDARDS FOR SITE DEVELOPMENT

4 All site development activities within jurisdictional
5 boundaries, approved by the County after the effective date of this
6 ordinance, shall comply with the following standards, as applicable, and
7 the standards shall be incorporated into a Sea Turtle Protection Plan
8 (STPP):

9 (1) Location, Alignment, and Placement of Structures. The
10 positioning of buildings, recreational facilities, walkways, beach access
11 points, parking lots and other features of the site shall be predicated
12 on minimizing operational impacts of these features on sea turtles.

13 (2) Ground-level Barriers and Dune Enhancement. Natural or
14 artificial structures rising above the ground should be used to the
15 maximum extent possible to prevent lighting from directly illuminating
16 the beach-dune system and to buffer noise and conceal human activity from
17 the beach. Improving dune height in areas of low dune profile, planting
18 natural vegetation, or using hedges and/or privacy fences is encouraged.

19 SECTION 11. STANDARDS FOR NEW BEACHFRONT LIGHTING

20 All lighting required for the coastal construction activities
21 as set out above, installed after the effective date of this ordinance,
22 shall comply with the following standards, as applicable, and shall be
23 incorporated into a Sea Turtle Protection Plan (STPP).

24 (1) General Prohibition. No artificial public or private
25 light source shall directly illuminate areas seaward of the dune where it
26 may deter adult female sea turtles from nesting or disorient hatchlings.

27 (2) Permanent Lighting. The installation of permanent
28 lighting shall reflect the standards and mitigative measures published in
29 the current state-of-the-art manual pertaining to coastal lighting and
30 sea turtle conservation (Raymond, Paul W., Sea Turtle Hatchling
31 Disorientation and Beachfront Lighting: A Review of the Problem and
32 Potential Solutions, Washington, (DC), Center for Environmental
33 Education, 1984).

34 (3) Reference Availability. The Department of Planning,
35 Zoning, and Building shall make a copy of the Raymond manual available
36 for review. As design and/or performance standards are developed or
37 upgraded and become available, the Department may provide additional
38 references.

39 (4) Controlled Use, Design and Positioning of Lighting.

40 (a) Any and all light fixtures shall be designed and/or
41 positioned such that they do not cause direct illumination of areas
42 seaward of the dune and the source of light is not directly visible from
43 the beach.

44 (b) All lights on balconies shall be shielded from the
45 beach.

46 (c) Lighting used in parking lots within the
47 jurisdictional area of this ordinance shall be:

- 48 (i) Set on a base which raises the source of
49 light no higher than forty-eight (48) inches
50 off the ground.

1 (ii) Positioned and/or shielded such that the
2 source of light is not visible from the
3 beach.

4 (5) Installation of Tinted Glass or Window Tint. Tinted
5 glass, as defined in this ordinance, or any window film applied to window
6 glass which meets the shading criteria for tinted glass, shall be
7 installed on all windows of single and multi-story structures within line
8 of sight of the beach.

9 (6) Design of Vehicular Circulation Improvements and Parking
10 Areas.

11 (a) Parking lots and roadways, including any paved or
12 unpaved area upon which motorized vehicles will operate, shall be
13 designed and/or positioned such that vehicular headlights do not cast
14 light toward the beach.

15 (b) Vehicular lighting shall be shielded from the beach
16 through the use of hedges, dune vegetation and/or other ground-level
17 barriers.

18 (7) Lighting For Pedestrian Traffic.

19 (a) Beach access points, dune crossovers, beach
20 walkways, piers or any other structure on or seaward of the dune designed
21 for pedestrian traffic shall use the minimum amount of light necessary to
22 ensure safety.

23 (b) Pedestrian lighting shall be recessed or shielded so
24 that the source of light is not directly visible from the beach.

25 (8) Beachfront Lighting Approval. Prior to the issuance of a
26 Certificate of Occupancy by the Department of Planning, Zoning and
27 Building, each Sea Turtle Protection Plan (STPP) shall be inspected for
28 compliance as follows:

29 (a) Upon completion of the construction activities, a
30 registered Florida architect or professional engineer shall conduct a
31 site inspection which includes a night survey with all the beachfront
32 lighting turned on.

33 (b) The inspector shall prepare and report the
34 inspection finding in writing to the Department of Planning, Zoning, and
35 Building, identifying:

36 (i) The date and time of initial inspection.

37 (ii) The extent of compliance with this section.

38 (iii) All areas of potential and observed
39 noncompliance with this section.

40 (iv) Any action(s) taken to remedy observed
41 noncompliance, if applicable.

42 (v) The date(s) and times(s) of remedial
43 inspections(s), if applicable.

44 (c) The inspector shall sign and seal the inspection
45 report which includes a certification that:

46 (i) The beachfront lighting has been constructed
47 in substantial accordance with the Sea Turtle
48 Protection Plan (STPP).

49 (ii) The beachfront lighting does not illuminate
50 areas seaward of the dune at the time of the
51 night inspection.

(iii) The beachfront light sources within the jurisdictional boundaries are not directly visible from the beach at the time of the night inspection.

(9) Approval Not Exclusive. Approval of compliance with the beachfront lighting standards set out in the STPP shall not relieve person(s) from complying with all other applicable conditions set out in this ordinance or from mitigating against subsequent negative impacts to sea turtles, their nests or eggs resulting from the approved activity.

SECTION 12. STANDARDS FOR EXISTING BEACHFRONT LIGHTING

Existing beachfront lighting shall comply with the following conditions by April 1, 1988.

(1) Adjustment to Essential Lighting. Existing artificial light sources shall be repositioned, modified or replaced with modern alternatives so that the source of light is not directly visible from the beach and/or does not directly illuminate areas seaward of the dune. Techniques and/or materials used shall be consistent with the Raymond manual referenced in Section 11(2) and other reference manuals identified by the Department of Planning, Zoning, and Building.

(2) Reduction of Indirect Lighting on the Beach. The installation of ground level barriers is encouraged to reduce the amount of indirect lighting striking the beach-dune system.

(3) Lighting For Pedestrian Traffic. Lights illuminating beach access points, dune crossovers, beach walkways, piers or any other structure seaward of the dune designed for pedestrian traffic shall be shielded such that they are not directly visible from the beach.

(4) Use of Window Treatments. To prevent interior lights from illuminating the beach, window treatment shall be required on all windows of single and multi-story structures within jurisdictional boundaries. Blackout draperies or shadescreens are preferred. Alternatively, window tint may be applied to beachfront windows. The turning out of all unnecessary interior lights during the nesting season is encouraged.

(5) Special Lighting Restrictions During the Nesting Season. Effective May 1, 1988, and continuously throughout each nesting season (May 1 through October 31), external light sources illuminating areas seaward of the dune shall be turned off each night between the hours of 11:00 p.m. and 7:00 a.m.

(6) Enforcement and Implementation of Mitigative Measures. In areas where compliance with the lighting conditions of this ordinance are not evidenced, non-compliant property owners shall be required to implement appropriate protective measures, developed in consultation with the Department of Planning, Zoning and Building to mitigate against potential negative impacts to sea turtles. Mitigative measures shall be implemented in addition to applicable penalties and fines. Any mitigation program implemented as a result of noncompliance with lighting conditions of this ordinance shall remain in effect until such time that acceptable beachfront lighting is achieved.

(7) Exception for Lighting Reduction Standard. Areas that have no potential nesting (dry sand) beach may be exempt from lighting restrictions if it can be demonstrated that the lighting is not visible on adjacent potential nesting (dry sand) beaches.

1 SECTION 13. STANDARDS FOR NEW BEACH ACCESS POINTS

2 All beach access points constructed after the effective date of
3 this ordinance shall comply with the following standards, and the
4 standards shall be incorporated into a Sea Turtle Protection Plan (STPP).

5 (1) Pedestrian Traffic. Pedestrian traffic shall be directed
6 and limited to beach access points provided with dune crossovers.

7 (2) Information Sign Requirements. Permanent sea turtle
8 information signs shall be conspicuously posted by applicable
9 jurisdiction at all new public beach access points provided with dune
10 crossovers. The information signs shall be standardized by the
11 Department of Planning, Zoning, and Building, or the Department of
12 Environmental Resource Management, or applicable municipal entity.

13 (a) Sea turtle information signs shall be encouraged at
14 all new private beach access points provided with dune crossovers.
15 Signage shall be the responsibility of the property owner.

16 (3) Standardized Information Requirement. Information
17 printed on the signs shall inform beach users:

18 (a) That sea turtles use the beach as a nesting habitat.

19 (b) Of potential penalties for the possession,
20 molestation, disturbance, harassment or destruction of sea turtles, their
21 nests or eggs.

22 (c) Of a contact address or phone number for public use
23 in obtaining additional information.

24 (4) Sign Maintenance Requirements. Standardized sea turtle
25 information signs shall be maintained in perpetuity such that information
26 printed on the signs remains legible and the signs positioned such that
27 they are conspicuous to persons at all public beach access points
28 provided with dune crossovers.

29 (5) Sign Removal. Removal of the information signs by anyone
30 other than those authorized by the County is prohibited.

31 SECTION 14. STANDARDS FOR EXISTING BEACH ACCESS POINTS

32 Permanent sea turtle informational signs shall be conspicuously
33 posted and maintained at all existing public beach access points provided
34 with dune crossovers in accordance with the standards set out in Section
35 13 by April 1, 1988. Sea turtle information signs shall be encouraged at
36 all existing private beach access points provided with dune crossovers.

37 SECTION 15. STANDARDS FOR MECHANICAL BEACH CLEANING

38 All mechanical beach cleaning activities approved by the State
39 after the effective date of this ordinance, designed to remove debris
40 from the beach, alter beach profiles, or disturb more than the upper two
41 (2) inches of beach sediment through the use of motorized vehicles or
42 other mechanical means, shall comply with the following standards, and
43 the standards shall be incorporated into a Sea Turtle Protection Plan
44 (STPP), as applicable:

45 (1) Compliance with County and State Beach-Dune Preservation
46 Policies. Equipment, methodologies and points of access shall be
47 consistent with beach-dune preservation policies established by the
48 County and State.

49 (2) Timing. Beach cleaning shall be confined to daylight
50 hours.

1 (3) Mode of Operations. During the nesting season (May 1
2 through October 31):

3 (a) Beach cleaning operations shall be limited to the
4 wrack line (previous high tide mark) or below.

5 (b) Light-weight motorized vehicles having wide, low-
6 profile, low-pressure tires shall be used to conduct beach cleaning
7 operations instead of heavy equipment.

8 (c) Devices used for removing debris from the beach
9 shall be designed and/or operated such that they do not penetrate beach
10 sediments by more than two (2) inches.

11 (4) Sea Turtle Protection Plan (STPP) Exemption. A STPP may
12 not be required for mechanical beach cleaning activities if it is
13 demonstrated to the Department of Planning, Zoning, and Building and to
14 the State of Florida, Department of Natural Resources, Bureau of Marine
15 Research that the proposed operation(s) will have no adverse effects on
16 the normal development and viability of eggs and hatchlings in sea turtle
17 nests and habitats, pursuant to the following procedures:

18 (a) The State of Florida, Department of Natural
19 Resources, Bureau of Marine Research, and the Department of Planning,
20 Zoning, and Building shall be notified in writing by the applicant that
21 the protective/mitigative measures set out in Section 9(5) shall not be
22 required as part of the State permit.

23 (b) The Department of Planning, Zoning, and Building
24 shall grant an exemption from the STPP upon consultation with the State
25 and receipt of a copy of the State permit prior to commencement of the
26 mechanical beach cleaning activities.

27 (5) Coordination of Beach Cleaning Operations With State-
28 Sanctioned Scientific Studies. All beach cleaning operations shall be
29 coordinated through the State to ensure that these operations do not
30 interfere with state-sanctioned scientific studies of sea turtle nesting
31 activities.

32 SECTION 16. ENFORCEMENT AND PENALTIES

33 (1) Enforcement and Responsibility.

34 (a) The Board of County Commissioners by and through the
35 Department of Planning, Zoning, and Building, or the applicable municipal
36 government shall adopt procedures for enforcing and administering this
37 ordinance and to employ those persons necessary for such administration
38 and enforcement.

39 (b) Consistent with law and this ordinance, the Palm
40 Beach County Code Enforcement Board shall have jurisdiction to enforce
41 this ordinance within municipalities of Palm Beach County, provided a
42 municipality does not have a Sea Turtle Protection Ordinance which
43 conflicts with this ordinance.

44 (c) When necessary, the Department of Planning, Zoning,
45 and Building may seek assistance from the Palm Beach County Sheriff's
46 Department to assist in enforcement.

47 (d) It shall be the duty and responsibility of all
48 appropriate law enforcement officers to enforce the provisions of this
49 ordinance.

50 (e) No building permit or Certificate of Occupancy
51 shall be granted by the Department, except in compliance with the
52 provisions of this ordinance or court decision.

1 (2) Violations and Criminal Penalties.

2 For any and every violation of the provisions of this
3 ordinance, and for each and every day that such violation continues, said
4 violation(s) shall be punishable in accordance with Florida Statutes,
5 Section 125.69 with a fine not to exceed five hundred (500) dollars, or
6 by imprisonment for not more than sixty (60) days, or by both such fine
7 and imprisonment, or as Section 125.69 may be amended.

8 Persons charged with such violation(s) may include:

9 (a) the owner, agent, lessee, tenant, contractor, or any
10 other person using the land, building, or premises where such violation
11 has been committed or shall exist, or

12 (b) any person who knowingly commits, takes part or
13 assists in such violation, or

14 (c) any person who maintains any land, building, or
15 premises in which such violation shall exist.

16 (3) Other Legal Remedies.

17 In addition to the criminal penalties and enforcement
18 procedures provided in Section 16(2) above, the Board of County
19 Commissioners may institute any lawful civil action or proceeding to
20 prevent, restrain or abate any violations of this ordinance.

21 (4) Other Administrative Remedies.

22 (a) Building Permits and Certificates of Occupancy.

23 (i) Issuance.

24 No building permit or Certificate of
25 Occupancy shall be issued by the Department of Planning, Zoning, and
26 Building for any purpose except in compliance herewith.

27 (ii) Revocation.

28 The Department of Planning, Zoning, and
29 Building may revoke a building permit or Certificate of Occupancy in
30 those cases where an administrative determination has been duly made that
31 false statements or misrepresentations existed as to material fact(s) in
32 the application or plans upon which the permit or approval was based.

33 (iii) Suspension.

34 The Department of Planning, Zoning, and
35 Building may suspend a building permit or Certificate of Occupancy where
36 an administrative determination has been duly made that an error or
37 omission on either the part of the permit applicant or government agency
38 existed in the issuance of the permit or certificate approval.

39 A valid permit or certificate shall be issued
40 in place of the incorrect permit or certificate after correction of the
41 error or omission.

42 (iv) Notice.

43 All Department of Planning, Zoning, and
44 Building decisions concerning the issuance, revocation, or suspension of
45 building permits and Certificates of Occupancy shall be stated in
46 official written notice to the permit applicant.

47 (b) Administrative Fines.

48 The Code Enforcement Board, upon notification
49 by the code inspector that an order of the Code Enforcement Board has not

1 been complied with by the set time or, upon finding that the same
2 violation has been repeated by the same violator, may order the violator
3 to pay a fine not to exceed \$250 for each day the violation continues
4 past the date set for compliance or for each time the violation has been
5 repeated, and a hearing shall not be necessary for issuance of the order.

6 SECTION 17. CONFLICTS

7 In the event this ordinance conflicts with any other applicable
8 regulations on this subject matter, the more restrictive shall apply.

9 SECTION 18. SEVERABILITY

10 If any section, part of a section, paragraph, sentence, clause,
11 phrase or word of this ordinance is for any reason held or declared to be
12 unconstitutional, inoperative or void, such holdings of invalidity shall
13 not affect the remaining portions of this ordinance and it shall be
14 construed to have been the legislative intent to pass this ordinance
15 without such unconstitutional, invalid or inoperative part therein, and
16 the remainder of this ordinance after the exclusion of such part or parts
17 shall be deemed to be held valid as if such part or parts had not been
18 included therein, or if this ordinance or any of the provisions thereof
19 shall be held inapplicable to any person, group of persons, property,
20 kind of property, circumstances or set of circumstances, such holdings
21 shall not affect the applicability thereof to any other person, property
22 or circumstances.

23 SECTION 19. APPLICABILITY

24 This ordinance shall be applicable throughout the
25 unincorporated and incorporated areas of Palm Beach County, pursuant to
26 the Charter of Palm Beach County, Florida, Section 1.3.

27 SECTION 20. FILING WITH THE DEPARTMENT OF COMMUNITY AFFAIRS

28 The County Attorney shall send a certified copy of this
29 ordinance to the Department of Community Affairs, 2571 Executive Center
30 Circle East, Tallahassee, Florida 32301.

31 SECTION 21. CODIFICATION

32 It is the intent of the Board and is hereby ordained, that the
33 provisions of this ordinance shall become and be made a part of the Code
34 of Laws and Ordinances of Palm Beach County, Florida; that the sections
35 of this ordinance may be renumbered or relettered to accomplish such
36 intentions; and the word "ordinance" may be changed to "section,"
37 "article," or other appropriate word.

38 SECTION 22. EFFECTIVE DATE

39 The provisions of this ordinance shall become effective upon
40 receipt of acknowledgement by the Secretary of State.

1 APPROVED AND ADOPTED by the Board of County Commissioners of
2 Palm Beach County, Florida, on the 25th day of August, 1987.

3
4 BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

5
6 By: [Signature]

Chair

7 ATTEST

8 John B. Dunkle, Clerk

9 APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

10 [Signature]
11 Deputy Clerk

[Signature]
County Attorney

12 Acknowledgement by the Department of State of the State of
13 Florida, on this, the 2nd day of September, 1987.

14 EFFECTIVE DATE: Acknowledgement from the Department of State
15 received on the 8th day of September, 1987, at 2:41 p.m.,
16 and filed in the Office of the Clerk of the Board of County Commissioners
17 of Palm Beach County, Florida.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the
Board of County Commissioners certify this to
be a true and correct copy. Original filed in
my office on 8/25/87
DATED at West Palm Beach, FL on 8/10/87
JOHN B. DUNKLE, Clerk,
By: [Signature] D.C.
Deputy Clerk